IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.Rev.Pet.No. 2918 of 2007()

C.C.NO. 607 OF 1998 OF THE J.F.C.M., KUNNAMANGALAM
CRA. 406 OGF 2005 OF THE II ADDL. SESSIONS COURT, KOZHIKODE

REVN. PETITIONER: APPELLANT/ACCUSED

K.P.BALAKRISHNAN, S/O. VELLAN,
MANILATH HOUSE, CHEVAYUR AMSOM AND DESOM,
CHEVARAMBALAM, CALICUT.

BY ADV. SRI.P.S.SREEDHARAN PILLAI

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

.....

Crl.R.P. No. 2918 of 2007

.....

Dated: 08-08-2007

O R D E R

Revision Petitioner who was the first accused in Crime No. 93 of 1998 of Chevayoor Police Station for an offence punishable under Section 498 A read with Sec. 34 I.P.C. challenges the conviction entered and the sentence passed concurrently against him by the courts below for the aforesaid offence. He was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 2,000/- and on default to pay fine to suffer simple imprisonment for three months.

2. The case of the prosecution can be summarised as follows:

The marriage between Remadevi the de facto complainant and the revision petitioner K.P. Balakrishnan was solemnized on 27-12-1992 at Arulappad Devi Temple, Chevarambalam in accordance with the custom prevailing in the community. After the marriage, they lived together at the matrimonial house along with the mother and two brothers of the revision petitioner. Within one month of the marriage the accused started illtreating and harassing the de facto complainant (PW1) saying that the dowry and ornaments brought by her at the time of marriage were inadequate. He used to physically assault her also.

3. On the side of the prosecution 12 witnesses were examined as P.Ws 1 to 12 and 10 documents were marked as

Exts.P1 to P10 Along with the revision petitioner his mother and two brothers were also placed for trial as accused Nos. 2 to 4.

4. After the close of the prosecution evidence the accused were questioned under Sec. 313 (1) (b) Cr.P.C. with regard to the incriminating circumstances appearing against them in the evidence for the prosecution. They denied those circumstances and maintained their innocence.

5. The learned Magistrate, after trial, as per judgment dated 28-4-2005 acquitted accused Nos. 2 to 4 but convicted the revision petitioner for the offence alleged against him. On appeal preferred by him as Crl.A. 406 of 2005 the Second Addl. Sessions Court, Kozhikode dismissed the appeal confirming the conviction and sentence. Hence this revision.

6. Eventhough the learned counsel for the revision petitioner assailed the conviction recorded against him, this Court sitting in the rarefied revisional jurisdiction will be loathe to interfere with the said conviction which has been recorded after an evaluation of the oral and documentary evidence in the case. Besides P.W.1 the wife of the revision petitioner , her brother and paternal uncle gave evidence as P.Ws 2 and 3 in support of the prosecution. I, therefore, do not find any good ground for interfering with the conviction recorded by the courts below.

7. What now survives for consideration is the question of adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the facts and sentence of the case, I do not think that penal servitude by way of incarceration is warranted in this case. I am of the view and that interests of

justice will be adequately met by directing him to undergo imprisonment till rising of the court and to pay an appropriate compensation to P.W.1 the injured wife of the revision petitioner. Accordingly, the sentence imposed on the revision petitioner is set aside and he is directed to undergo imprisonment till the rising of the court and to pay a sum of **Rs. 20,000/- (Rupees twenty thousand only)** by way of compensation to P.W.1 under Section 357 (3) Cr.P.C. The compensation shall be paid within 45 days from today, failing which the revision petitioner shall suffer simple imprisonment for three months.

In the result, this Revision is disposed of confirming the conviction but modifying the sentence as above.

V. RAMKUMAR, JUDGE.

ani.